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THIRTY-SECOND ANNUAL REPORT

OF THE

INSPECTOR

OF

MILK AND VINEGAR

1890.

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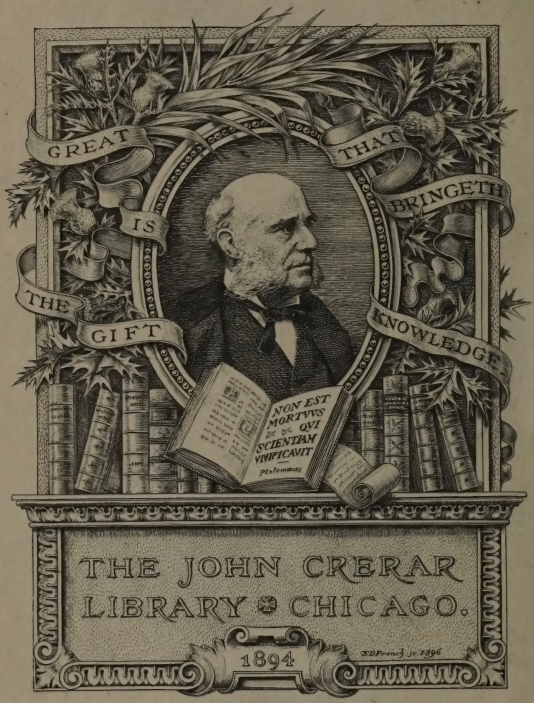
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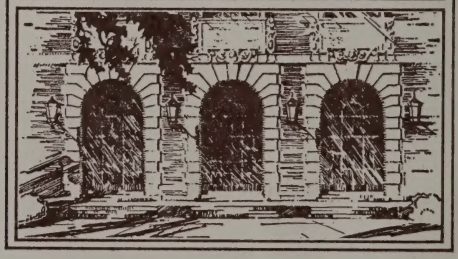

THIRTY-SECOND ANNUAL REPORT

OF THE

DEPARTMENT FOR THE INSPECTION OF MILK AND VINEGAR,

FROM

Jan. 1, 1890, to Dec. 31, 1890.

BOSTON:
ROCKWELL AND CHURCHILL, CITY PRINTERS.
1891.

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Boston, January 1, 1891.

Hon. Nathan Matthews, Jr.,

Mayor of the City of Boston: —

Sir, — I have the honor to submit the following report for the Department of Inspection of Milk and Vinegar for the year 1890: —

The increased appropriation, which was asked for and granted, has enabled the department to employ an additional collector of samples, and to have the use of a horse and wagon, whereby the amount of work performed and the general efficiency of the office have been considerably increased. The number of samples collected and examined in the laboratory since January 1 exceeds that of any preceding year by more than 2,800. The outlying districts have been visited with greater frequency, and larger collections have been made than were possible before the department had a horse of its own.

In enforcing the laws relating to the inspection and sale of milk, vinegar, and oleomargarine, due regard has been paid to the conditions of each case, and dealers have been put to no unnecessary hardship, while at the same time where severity has been needed it has not been spared. A number of dealers, whose milk was rarely beyond reproach and apparently incapable of improvement by repeated prosecutions, have gone out of the business. The amount paid to the city in fines has gone far toward defraying the entire expenses of the department. Reckoning this as income of the office, the cost to the city for the department for the past year, including all salaries and running expenses, was $1,145.13.

At the last session of the Legislature no changes were made in the laws under which the Inspector acts, and, in consequence, his duties and the routine of the office have undergone no change. Therefore, in treating of the same, the conditions being as before, I may be excused for repeating more or less largely from my last report (Doc. 31, 1890).

The principal duties of the Inspector, as defined by the statutes under which he acts, are the issuing of licenses, the registration of stores where milk or oleomargarine is sold, the collection and inspection of samples, and the enforcement of the laws in the courts.

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LICENSES.

The statutes governing the sale of milk and oleomargarine require that every person who conveys either of these articles, in carriages or otherwise, for the purpose of selling the same within the limits of the city, shall be licensed annually by the Inspector of Milk, and shall pay fifty cents to the use of the city. Every person before selling milk or oleomargarine, or offering the same for sale in a store, booth, stand, or market-place, shall register in the books of the Inspector, and shall pay fifty cents, which fee is paid but once by the dealer in milk, and annually by the dealer in oleomargarine.

Licenses are issued only in the names of the owners, and may not be sold, assigned, or transferred. Each license records the name, residence, place of business, number of carriages or other vehicles used, the name and residence of every driver or other person engaged in carrying or selling, and the number of the license.

The licensee is required to cause his name, the number of his license, and his place of business to be legibly placed on each outer side of all carriages or vehicles used by him in the sale and conveyance of milk or of oleomargarine, and to report to the Inspector any change of driver or other person employed. For failure to comply with these requirements, or for selling or exposing for sale from carriages or other vehicles without first being licensed, a fine of not less than thirty nor more than one hundred dollars may be imposed. Repetitions of the same offence call for heavier penalties.

Failure to register for the sale of milk or of oleomargarine from stores is punishable by fine not exceeding twenty dollars.

Number of licenses issued to dealers conveying milk by carriages or otherwise for purposes of sale .	691
Number of new registrations of store-keepers engaged in the sale of milk	473
Number of licenses to dealers and of registrations of store-keepers engaged in the sale of oleomargarine	103
Total number of licenses and registrations . .	1,267
Amount of money received for the same and turned over to the City Collector	$633.50

INSPECTION.

The Inspector is authorized by statute to employ, subject to the approval of the Mayor, suitable persons to act as col-

lectors of samples, who must be sworn before entering upon their duties. He and his collectors are empowered to enter all places where milk, butter, or cheese is stored or kept for sale, and all carriages used for the conveyance of milk, and to take samples of milk and of suspected butter and cheese for analysis, and he shall cause the samples so taken to be analyzed or otherwise satisfactorily tested, the results of which examination shall be recorded and preserved as evidence. In the case of milk the owner or custodian has the right to demand and receive a sealed portion of the sample for his own use in case of complaint.

Collections of samples for inspection are made on every week-day, and frequently on Sunday. The time varies very much according to circumstances, but most of them are made in the early morning and forenoon, though often a district is visited in the afternoon or evening. The usual method of collecting milk samples is as follows: The collectors go to the different districts, to which they have been assigned the previous day, and begin their work very early in the morning, usually about two or three o'clock. Each carries a satchel in which are sample cans, bottles for return samples, tags for identification of the specimens collected, blank receipts, sealing-wax, etc. At the time of taking a sample the collector makes a series of memoranda on a tag, which, before leaving the wagon, he affixes by means of a piece of copper wire to the handle of the sample can. The memoranda include every important point in any way connected with the taking of the milk, — the name on the wagon, the license number, the name of the driver in charge, the time and exact locality, the number of cans on the wagon, the kind of can from which the sample was taken, whether the same was marked "skimmed milk," whether a sealed portion of the sample was delivered, and to whom, and any unusual or peculiar circumstances. These notes are made in the presence of the driver; and the tag, securely fastened to the sample, serves for its identification, and may later be used to refresh the memory of the collector on the witness-stand in case of prosecution. In every case, the person from whom the sample is taken is asked if he desires a sealed portion of the same. If the answer is in the affirmative, a three-ounce bottle is filled, properly labelled by means of a small tag, and sealed in such a way that the latter cannot be removed without breaking the seal. The collector then delivers the bottle to the person in charge, who signs a receipt for the same.

As soon as the collector has obtained a sufficient number of samples he proceeds to the office, and having delivered

them to the chemist, prepares to make a second trip. If, as frequently happens, he arrives at the office at such an early hour that nobody else is present, he locks his samples into a small closet, to which only himself and the chemist have keys. The second trip is made as a rule during the forenoon among the stores.

The different districts of the city are not visited with any fixed regularity, and thus it happens that the dealers have no idea when they may next expect a visit, and hence cannot feel that having been inspected to-day there will be no risk attending the conveyance of adulterated milk to-morrow. Collections are frequently made on several consecutive days in the same district by one, two. or all three collectors, and certain districts may be visited by the collectors twice in the same morning.

Collections of samples of vinegar are made at any time during the day, the collectors going from store to store. As the law as it stands does not authorize the Inspector and his assistants to take samples of vinegar for analysis, it is not an easy matter to reach the wholesale dealers, who, as a rule, are responsible for the quality of the vinegar sold in the retail stores. In order to reach this class directly and obtain samples for analysis, it is necessary to resort to the expedient of purchasing by wholesale, as for a store.

In the enforcement of the law relating to the sale of oleomargarine the method of procedure is rather different. In the case of milk or of vinegar, it is an offence to sell, or to have in one's possession with intent to sell, the article when not of a certain quality ; but in the case of oleomargarine, the principal offences are selling without being licensed or registered, and selling in packages not marked according to the statutes. It would be, therefore, quite superfluous and unnecessary to collect samples of oleomargarine known to be such, merely for purposes of analysis, for the result of the latter would be a foregone conclusion, and of no purpose. Samples of butter suspected to be oleomargarine may be taken for analysis, but as a rule the result of the examination shows them to be the genuine article. Since the principal offences against the law relate to sales, it follows that samples must be purchased. It is obvious that a dealer, knowing, as he often does, the faces of the Inspector and his assistants, will not be likely to deliver the article improperly marked, even though that were his usual practice in his daily business. Nor will, as a rule, a dealer who is dishonestly inclined, and who may disregard the provisions of the law in his dealings with his regular customer whom he well knows, care to run the risk of detection, with its consequent heavy penalty, by

dealing dishonestly with a perfect stranger, who may be an agent of the Inspector. For these reasons, and also for the reason that, as a rule, oleomargarine is delivered to the buyer marked according to law, a great number of infractions of the statutes have not been shown. The places where oleomargarine is sold have been visited, and many tubs have been examined with reference to their markings. Many purchases at retail have been made, but where the wrappers have been properly marked, as they usually have been, the samples have not been taken to the office for analysis. Where a sale has been made by an unregistered dealer the sample has been analyzed simply for purposes of evidence, even though it were delivered with the proper labelling. No record is kept of the number of visits made to places where the business is shown to be conducted according to law.

Number of Samples Examined in the Laboratory.

Number of samples of milk examined: —

Taken from wagons	8,296
Taken from stores	5,294
Brought to the office by consumers	263
Total number of milk samples	13,853
Number of samples of butter and oleomargarine	71
Number of samples of vinegar	569
Total number of samples examined	14,493
Highest number examined in any preceding year [1889]	11,685
Increase for the year	2,808

Action taken in Cases where Examination shows Deficient Quality.

The results of each day's laboratory work are examined by the Inspector, and such action is taken in each case where deficient quality is shown as seems most expedient and proper. Should a sample, for example, taken from a store prove to be unusually bad or to be colored, a collector is detailed to go on the following morning and take samples from the cans just as they are delivered at the store by the

milkman. If these prove to be bad, the store-keeper is advised of the fact, and the blame is placed where it belongs. If, on the contrary, the latter samples prove to be good, it may be inferred that the store-keeper is not only technically but morally guilty, or that the milkman is on his guard, or that the bad sample may have been, so far as these individuals are concerned, more or less accidental. The final disposition, whether warning or prosecution, depends upon the circumstances.

Again, a poor sample is taken from a store, and reference to the records shows that the proprietor has already been warned several times; in such a case the result is prosecution or a final warning. If the store has a good record, a simple warning notice may be sent. To have a good record it is not essential that every sample ever taken should have been good, but that the percentage of poor samples has been very low, and that due care is taken by the proprietor in obtaining and handling his milk.

In the case of a milk pedler, it is necessary to hold him rather more responsible for the character of his milk, for with him the sale of milk is his whole business, while with the shopkeeper it is only an incident. He may claim that he is imposed upon by the contractor or by the farmer, or that the fault lies with the cows, but it is his business to see that the milk which he sells to families and stores is of good quality. He knows that there are methods for rough determination of the quality of milk, which require very little time or manipulative skill, and that the necessary instruments may be obtained for a small sum at the several stores where physical and chemical apparatus is kept for sale. An outlay of an amount equal to about a tenth of the minimum fine, and the daily expenditure of a little time, can scarcely be considered a hardship. Many milkmen, and store-keepers as well, look after their milk personally, and make the simple instrumental examination daily. It is not customary to send formal warning notices to the pedlers, though in exceptional cases it is sometimes done. With this class a distinctly bad sample means usually either a prosecution or being put on probation.

No action is taken or required where analysis shows unimportant variations from the statute standard.

When samples of vinegar prove to be of poor quality, the final disposition is, as with the case of milk, dependent on circumstances, and may be warning or complaint.

In cases of illegal sale of oleomargarine, complaints are entered forthwith.

COMPLAINTS.

Number of complaints entered in the Municipal Courts	248
Central District (Boston)	101
Roxbury District	42
Charlestown District	38
South Boston District	37
East Boston District	14
Dorchester District	10
West Roxbury	4
Brighton District	2

The results of the 248 complaints were as follows: —

Number of convictions	217
Number of acquittals	5
Number of warrants returned without service	6
Number of cases *nol. pros'd*	13
Number of cases pending	7

Of the cases *nol. pros'd*, nearly all were so disposed of on account of the death of the collector who obtained the samples, and who was to have testified concerning them.

Of the 217 cases in which convictions were obtained in the District courts, 91 were taken to the Superior Court on appeal. Four of these were *nol. pros'd*, four resulted in acquittal, five are pending, and the balance (78) have resulted in favor of the government. The amount paid in fines in the several courts during the year was $8,387.

The offences for which the above complaints were entered were as follows: —

MILK.

For obstructing an agent of the Inspector in the discharge of his duties	1
For selling milk without being licensed	1
For not conforming to the requirements of the license,	1
For selling, or having in possession with intent to sell, milk not of standard quality or containing coloring-matter	217
Total number of cases under the milk law	220

OLEOMARGARINE.

For selling oleomargarine not properly marked	8
For selling oleomargarine not being registered	15
For not conforming to the requirements of the license,	1
Total number of cases	24

VINEGAR.

For selling adulterated cider-vinegar 4

In nearly a third of the complaints the defendants were residents of places other than Boston.

Complaints against residents of Somerville . . .	24
Complaints against residents of Cambridge . .	11
Complaints against residents of Lexington . .	8
Complaints against residents of Arlington . . .	6
Complaints against residents of Medford . . .	5
Complaints against residents of Waltham . . .	4
Complaints against residents of Everett . . .	4
Complaints against residents of Chelsea . . .	3
Complaints against residents of Milton . . .	2
Complaints against residents of Brookline . . .	2
Hyde Park, Dedham, Westboro, and Revere .	1 each

The 248 complaints by no means represent the same number of individuals, for one person may be the defendant in a number of cases. Seven of the complaints were against individual members of, or drivers employed by, one firm who have at times given the department considerable trouble, both by carrying poor milk and by resisting inspection. Convictions were obtained in every case, the defendants pleading guilty in the lower court in four cases, and being found guilty in the other three. Appeals to the higher court were taken in the latter, but on being called for trial the defendants pleaded guilty. The seventh complaint was based on one of ten samples which were taken from cans delivered one morning at a bake-shop supplied by the defendant, where, a few days before, a sample had been obtained which showed extensive watering. On the day set for trial, the member of the firm who was in charge at the time of delivery of the milk, acknowledged guilt, and paid his fine, promising to give no further cause for complaint, which promise has been satisfactorily observed. In most of the other cases where it has been found necessary to proceed several times, the result has been a decided and apparently permanent improvement.

Number of persons defendant in 5 complaints . .	1
Number of persons defendant in 4 complaints . .	4
Number of persons defendant in 3 complaints . .	4
Number of persons defendant in 2 complaints . .	21

In the following table are given the analyses of the milk samples upon which complaints have been based during the year, arranged in the order of percentage of milk-solids from the lowest to the highest: —

DISTRICT.	Fat.	Solids not Fat.	Total Solids.	Coloring Matter, if any.
Boston	1.22	5.92	7.14	
Roxbury	1.34	6.40	7.74	
Boston	. . .	. . .	8.00	
Boston	1.80	6.38	8.18	Annatto.
Boston	2.20	6.00	8.20	Caramel.
Boston	1.80	6.44	8.24	
Boston	1.90	6.38	8.28	Caramel.
Dorchester	1.82	6.54	8.36	
Boston	1.72	6.68	8.40	Caramel.
*South Boston	2.12	6.34	8.46	
*Boston	0.96	7.54	8.50	
Roxbury	2.32	6.38	8.70	Annatto.
Boston	1.08	7.90	8.98	
Boston	1.86	7.18	9.04	
Dorchester	2.56	6.52	9.08	
Charlestown	1.56	7.54	9.10	Annatto.
Boston	1.92	7.24	9.16	
*Roxbury	2.22	7.12	9.34	
Roxbury	. . .	. . .	9.34	
Boston	0.94	8.44	9.38	
Boston	0.98	8.54	9.52	
*Boston	2.30	7.24	9.54	
Boston	2.42	7.24	9.66	
South Boston	2.68	6.98	9.66	Annatto.
Roxbury	1.70	7.98	9.68	
*Roxbury	1.26	8.44	9.70	

* Sold as skimmed milk.

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District.	Fat.	Solids not Fat.	Total Solids.	Coloring Matter, if any.
West Roxbury	2.44	7.28	9.72	
Charlestown	. . .	. . .	9.74	
Boston	. .	. . .	9.74	
Roxbury	2.24	7.52	9.76	
South Boston	2.60	7.18	9.78	
South Boston	1.88	7.98	9.86	
South Boston	2.50	7.38	9.88	
Boston	1.64	8.24	9.88	
Roxbury	2.24	7.70	9.94	
Boston	2.02	7.94	9.96	Caramel.
Boston	1.70	8.38	10.08	
Boston	1.94	8.20	10.14	
Boston	. . .	. . .	10.14	
South Boston	2.56	7.58	10.14	
Dorchester	1.56	8.68	10.24	
Charlestown	2.40	7.84	10.24	
Boston	2.50	7.74	10 24	Annatto.
Boston	2.12	8.28	10.40	
Boston	2.80	7.60	10.40	
South Boston	2.78	7.64	10.42	
Boston	2.64	7.84	10.48	
Boston	2.40	8.08	10.48	
Roxbury	2.74	7.74	10.48	
Boston	. . .	. . .	10.50	
*Boston	2.56	7.94	10.50	
Roxbury	1.04	9.50	10.54	

*Sold as skimmed milk.

DISTRICT.	Fat.	Solids not Fat.	Total Solids.	Coloring Matter, if any.
*South Boston	2.50	8.04	10.54	
South Boston	2.84	7.76	10.60	
East Boston	1.62	8.98	10.60	
Boston	2.36	8.24	10.60	
*Boston	3.02	7.60	10.62	Caramel.
Boston	0.82	9.82	10.64	
Roxbury	0.94	9.70	10.64	
Charlestown	1.34	9.30	10.64	Annatto.
Boston	2.44	8.24	10.68	
Boston	2.36	8.34	10.70	Caramel.
Boston	0.90	9.84	10.74	
Roxbury	0.46	10.28	10.74	
Charlestown	1.90	8.84	10.74	
South Boston	4.00	6.78	10.78	
Boston	2.28	8.54	10.82	
Charlestown	3.00	7.84	10.84	
Roxbury	1.24	9.64	10.88	
Boston	2.52	8.36	10.88	
Boston	1.84	9.06	10.90	
Charlestown	2.20	8.70	10.90	
Charlestown	1.94	8.98	10.92	
Roxbury	2.74	8.18	10.92	
Roxbury	0.68	10.26	10.94	
Roxbury	1.24	9.70	10.94	
Boston	1.54	9.44	10.94	
Charlestown	3.34	7.60	10.94	

*Sold as skimmed milk.

District.	Fat.	Solids not fat.	Total Solids.	Coloring Matter, if any.
Dorchester	1.40	9.54	10.94	
South Boston	2.40	8.58	10.98	
Roxbury	3.04	8.98	11.02	
Roxbury	2.44	8.60	11.04	
Roxbury	1.48	9.56	11.04	
Charlestown	2.68	8.38	11.06	
Dorchester	2.36	8.74	11.10	Annatto.
Dorchester	1.64	9.50	11.14	
Charlestown	2.80	8.34	11.14	
Boston	1.30	9.84	11.14	
Boston	1.24	9.92	11.16	
Roxbury	2.50	8.66	11.16	
Brighton	2.26	8.94	11.20	
*Charlestown	1.90	9.34	11.20	Annatto.
Boston	2.98	8.22	11.20	
Boston	1.62	9.60	11.22	
Boston	1.26	9.98	11.24	
*Charlestown	2.40	8.84	11.24	
Boston	2.38	8.88	11.26	
Boston	2.18	9.08	11.26	
Charlestown	2.78	8.50	11.28	
South Boston	3.18	8.10	11.28	
Dorchester	0.90	10.40	11.30	
Roxbury	3.44	7.86	11.30	
Charlestown	1.54	9.80	11.34	
East Boston	2.56	8.78	11.34	

*Sold as skimmed milk.

DISTRICT.	Fat.	Solids not Fat.	Total Solids.	Coloring Matter, if any.
Brighton	1.42	9.94	11.36	
Roxbury	1.96	9.40	11.36	Annatto.
Roxbury	2.12	9.26	11.38	
Boston	2.04	9.34	11.38	
Boston	1.60	9.78	11.38	
Charlestown	2.40	8.98	11.38	
Charlestown	3.08	8.30	11.38	
Charlestown	2.70	8.70	11.40	
Boston	3.00	8.40	11.40	
Roxbury	2.08	9.32	11.40	
East Boston	2.56	8.90	11.46	
Dorchester	1.82	9.64	11.46	
Central	3.02	8.44	11.46	
South Boston	2.98	8.50	11.48	
Charlestown	2.68	8.80	11.48	
Charlestown	2.36	9.14	11.50	
East Boston	2.70	8.80	11.50	
Boston	2.92	8.58	11.50	
Boston	1.56	9.94	11.50	
Boston	2.64	8.86	11.50	
Boston	2.08	9.46	11.54	
South Boston	2.00	9.54	11.54	
South Boston	3.00	8.54	11.54	
Roxbury	2.78	8.76	11.54	
Charlestown	3.04	8.54	11.58	
Charlestown	1.76	9.84	11.60	
Boston	2.70	8.90	11.60	
Boston	1.92	8.68	11.60	

District.	Fat.	Solids not Fat.	Total Solids.	Coloring-Matter, if any.
South Boston	2.20	9.40	11.60	
Roxbury	2.40	9.20	11.60	
Roxbury	2.34	9.28	11.62	
South Boston	2.84	8.78	11.62	
South Boston	1.96	9.68	11.64	
South Boston	2.68	8.96	11.64	
Charlestown	2.96	8.68	11.64	
Roxbury	2.26	9.38	11.64	
Boston	1.66	9.98	11.64	
Boston	2.04	9.62	11.66	
East Boston	2.92	8.74	11.66	
Charlestown	2.36	9.32	11.68	
South Boston	3.18	8.50	11.68	
South Boston	2.92	8.76	11.68	
South Boston	3.00	8.70	11.70	
South Boston	2.56	9.14	11.70	
South Boston	2.64	9.06	11.70	
East Boston	1.74	9.96	11.70	
East Boston	2.86	8.84	11.70	
Boston	2.56	9.14	11.70	
Charlestown	2.86	8.86	11.72	
Charlestown	3.64	8.10	11.74	
Charlestown	2.80	8.94	11.74	
Roxbury	2.54	9.20	11.74	
East Boston	2.88	8.86	11.74	
South Boston	1.98	9.76	11.74	
Boston	2.60	9.14	11.74	
Boston	2.16	9.58	11.74	

DISTRICTS.	Fat.	Solids not Fat.	Total Solids.	Coloring-matter, if any.
Boston	2.04	9.70	11.74	
*Boston	3.08	8.68	11.76	
*Charlestown	2.96	8.80	11.76	Caramel.
Roxbury	2.84	8.94	11.78	
Boston	2.14	9.64	11.78	
East Boston	3.08	8.70	11.78	
West Roxbury	2.62	9.18	11.80	
South Boston	2.70	9.10	11.80	
South Boston	3.26	8.54	11.80	
Boston	2.72	9.08	11.80	
Boston	2.32	9.48	11.80	
East Boston	2.98	8.84	11.82	
East Boston	2.26	9.58	11.84	
Dorchester	2.34	9.50	11.84	
Dorchester	2.90	8.94	11.84	
Boston	2.86	8.98	11.84	
Boston	2.66	9.20	11.86	
Boston	3.34	8.54	11.88	
Boston	3.18	8.70	11.88	
Boston	2.66	9.22	11.88	
Boston	2.58	9.30	11.88	
Boston	2.66	9.22	11.88	
Boston	2.92	8.96	11.88	
East Boston	2.12	9.76	11.88	
East Boston	3.80	8.80	11.88	
Roxbury	2.04	9.84	11.88	

* Sold as skimmed milk.

Districts.	Fat.	Solids not Fat.	Total Solids.	Coloring-matter, if any.
South Boston	3.04	8.84	11.88	
South Boston	3.00	8.88	11.88	
South Boston	2.12	9.78	11.90	
Boston	3.22	8.68	11.90	
Boston	3.06	8.84	11.90	
East Boston	2.94	8.98	11.92	
Roxbury	3.12	8 82	11.94	
Boston	2.96	8.98	11.94	Caramel.
Boston	2.86	9.08	11.94	
South Boston	3.06	8.88	11.94	
Charlestown	2.84	9.10	11.94	
Charlestown	2.86	9.10	11.96	
Charlestown	2.72	9.24	11.96	
Charlestown	3.02	8.94	11.96	
Roxbury	2.78	9.18	11.96	
Roxbury	2.44	9.52	11.96	
Boston	3.22	8.74	11.96	
Boston	2.46	9.50	11.96	
Boston	2.50	9.48	11.98	
Charlestown	. . .	. . .	12.00	
Boston	3.14	8.88	12.02	
Roxbury	3.22	8.84	12.06	
Roxbury	3.22	8.84	12.06	
Charlestown	2.88	9.20	12.08	
Boston	. . .	. . .	12.10	Caramel.
Roxbury	3.30	8.84	12.14	
Boston	. . .	. . .	12.34	

DISTRICTS.	Fat.	Solids not fat.	Total Solids.	Coloring-matter, if any.
Boston	. . .	. . .	. . .	Annatto.
Charlestown	. . .	. . .	. . .	Caramel.
Charlestown	. . .	. . .	. . .	Caramel.
Charlestown	. . .	. . .	. . .	Caramel.

The poorest milk in the above table (7.14 per cent) was purchased at "Camp Sheridan" during the Grand Army encampment in August. The price paid *for a pint was ten cents.* Complaint was entered against the caterer, who acknowledged before trial that he knew it was bad, but claimed that he could get no better. On his trial, he was acquitted on a technicality concerning the agency of the person who made the sale. On the morning following the purchase of this sample, a number of specimens were taken from the wagon of the dealer supplying the caterer, just as the cans were about to be delivered. These were found to be badly watered, and complaints were entered against the dealer for selling watered milk, and for selling watered skimmed milk. (Numbers 3 and 22 in the table.) He was found guilty, and was very heavily fined.

Four of the poorest samples in the table were purchased of the proprietor of a restaurant, who was in the habit of locking himself into a small room with the milk as soon as it was delivered. After the complaints were entered this habit was abandoned.

The great majority of the very poor samples in the list were taken during the few weeks in summer when milk was unusually scarce, and when dealers found great difficulty in obtaining enough for their regular customers. Several dealers claimed that it was absolutely necessary to have recourse to watering in order to have volume enough to supply their regular trade, and that it was better for their business to run the risk of being obliged to pay a fine than to risk losing good customers by failure to deliver the usual amount, even though of poor grade.

The best sample in the list (12.34 per cent.) is the one referred to on a preceding page as the basis of a seventh complaint.

QUALITY OF BOSTON'S MILK.

The result of the daily examinations of milk shows that the supply is, as a rule, of good quality, and that the percentage of actually adulterated milk is very small. At times during the year an actually bad sample is uncommon; but, again, when milk is scarce and difficult to obtain, the number of watered and colored samples is sharply increased. In fact, the number of bad samples is an excellent index of the scarcity or abundance of the supply.

There are, of course, certain men who will tamper with their milk whenever they think it a reasonably safe risk, and there are others who will do it when, as they claim, they are obliged to for business reasons. When these are detected they are invariably prosecuted.

STATISTICS OF THE MILK BUSINESS OF BOSTON FOR THE YEARS 1886, 1887, 1888, 1889, AND 1890.

Number of Milk Routes in the City of Boston.

	1886.	1887.	1888.	1889.	1890.
Total number of routes.....	664	632	626	610	691
Routes of 1 to 5 cans	178	163	146	152	138
" 5 " 10 "	84	83	63	60	84
" 10 " 25 "	117	115	112	112	95
" 25 " 50 "	177	150	158	141	126
" 50 " 100 "	78	88	98	101	112
" 100 " 200 "	17	16	18	29	30
" over 200 "	6	8	8	10	13
Number of drivers employed,	529	543	556	591	609
Number of cows kept within the city limits whose milk is sold.....	1,619	1,668	1,689	1,849	1,790

Quantity of Milk sold in the City of Boston.

Estimated number of quarts of milk for average daily consumption: —

1886	180,565
1887	189,040
1888	199,078
1889	207,493
1890	218,476

Increase of daily amount in 1887 over preceding year	8,475
Increase of daily amount in 1888 over preceding year	10,038
Increase of daily amount in 1889 over preceding year	8,415
Increase of daily amount in 1890 over preceding year	10,983

Oleomargarine.

The law relating to oleomargarine provides that when this substance is sold or exposed for sale it shall be plainly and conspicuously marked with the words "Imitation Butter," "Oleomargarine," or "Butterine," in printed letters of plain uncondensed Gothic type, not less than one-half inch in length. If it is sold or exposed for sale in the original package, the latter shall be marked on the top, side, and bottom; if exposed for sale not in the original package, it shall be properly labelled; and when sold at retail, and not in the original package, the seller shall "attach to each package so sold, and shall deliver therewith to the purchaser a label or wrapper, bearing in a conspicuous place upon the outside of the package" the words above mentioned, and no others.

The provisions of this law are very generally complied with, and although on the lookout for illegal sales, the Inspector has occasion to enter very few complaints. In the stores, both wholesale and retail, the sales are, as a rule, made with all legal precautions. There is, however, a class of dealers whom it is very difficult to control, and it is impossible to state how far they may go in breaking the law. I refer to those who peddle from wagons among people whom they know, and among the most ignorant classes. Most of these persons are connected with the many cheap tea-stores where poor tea and worse baking-powders are sold at good prices, the obtaining of which is facilitated by presents of

cheap chromos and crockery. Owing to a provision in the national law, these men claim not to sell, but merely to deliver on orders, and when they start on their routes the packages are properly marked according to law. They carry, however, as a rule, a tub or two, and a supply of marked wrappers, the latter for use if necessary or advisable. Proceeding on their way, they deliver to their regular customers; and make sales to such new customers as may apply, and the oleomargarine is sold as real or artificial butter, according to circumstances. The difficulty of dealing with these persons must be self-evident. They are very wary, and are apt to suspect a stranger accosting them on the street of being in some way connected with government.

During the year, eight complaints were entered for illegal sales. These were as follows: —

No. 1. Sold in an unmarked wrapper in a tea-store on a Saturday night. Fined $100.

No. 2. Sold from a wagon by a pedler, as and for butter and without marking. This man had a number of tubs of oleomargarine in his wagon, and not so much as a scrap of wrapping-paper; he was retailing it from house to house, and delivering it on plates, etc., furnished by the purchasers. The inspector passing along the street saw the man descend from his wagon with a lot of butter on a plate, and enter a house. Examination of the interior of the wagon showed that an illegal business was being carried on, and full confession was made by the proprietor on his return. He was fined $100 for the sale and $30 for not having his name on the wagon.

No. 3. Sold as butter in a small grocery store; the wrapper was not marked. The case was entered in court, but the defendant moved away and could not be found.

No. 4. Sale made in an unmarked wrapper by a clerk in a provision store. Fined $100.

No. 5. Wrapper not marked in a proper manner. The word "oleomargarine" was printed in small type on a scrap of paper, which was folded and tucked under the string. Defendant was released on a technicality.

No. 6. Sale made by the driver of a tea-store wagon. A collector was detailed to follow the wagon from the starting-point and learn the man's methods. While the driver was in a house delivering goods, the collector went into a doorway, where he divested himself of his coat and hat and awaited his return. When he appeared, the collector came out of the doorway, and, being in his shirt-sleeves, had all the appearance of being a resident of the house and a *bona*

fide customer. Being asked if he had any good butter for sale, the driver answered in the affirmative, and delivered a pound of what proved to be oleomargarine. It was wrapped in a properly marked paper, but the printed side was turned in so as not to be seen. He was fined $100.

No. 7. In this case the substance was wrapped in paper which was so faintly marked as to be illegible. Examination of the stock of wrappers showed that the faintness of the marking was intentional. The dealer was fined $100.

No. 8. In this case a pedler sold to a grocer a tub of oleomargarine, from which all markings and the revenue stamp had been removed. The substance was sold as butter. This case is pending.

VINEGAR.

The examinations of samples of vinegar have demonstrated a great improvement in quality. The wholesalers have taken greater pains to send out none but good lots, and but very few weak samples have been found among the retail stores. It is easier to deal with the vinegar question than with either of the others, for the reason that when a retailer receives a warning that his vinegar is poor, he sends the balance of his supply back to the wholesaler, and the latter, after hearing from a number of indignant customers in this manner, is forced to take precautions to prevent a repetition.

During the year it was found necessary to make but four complaints under the vinegar law.

EXPENSES FROM JAN. 1, 1890, TO DEC. 31, 1890.

Salaries of Inspector, Clerk, Chemist, and collectors of samples	$8,551 00
Printing and advertising	226 32
Stationery	97 01
Postage	46 00
Chemical apparatus	55 81
Chemicals	10 25
Bottles, wire, and other supplies for collectors,	150 72
Horse, harness, etc., and maintenance	647 65
Collectors' expenses	154 25
Telephone service	120 00
Water tax	18 60
Tags for samples	48 90
Minor office expenses	39 12
	$10,165 63

INCOME FROM JAN. 1, 1890, TO DEC. 31, 1890.

From 1,267 licenses and registrations . .	$633 50
From fines as the result of complaints . .	8,387 00
Total	$9,020 50
Actual cost of the department to the city .	$1,145 13

EQUIPMENT OF THE DEPARTMENT.

The working force of the department consists of the Inspector, a clerk, a chemist, and three collectors of samples. The office and laboratory are well furnished with all needful appliances for the work carried on. The out-door work has been much improved by the addition of a horse and wagon to the service. The department has as yet no wagon of its own, although the appropriation for the purchase of one has been granted. Two wagons have been delivered and tried, but they were unsatisfactory, and were returned; and now a third, which it is hoped will prove satisfactory, is being built. In the meantime, the department has the use of another.

SCHEDULE OF PROPERTY HELD BY THE DEPARTMENT.

Office and laboratory furniture.
Records and city documents.
2 chemical balances.
2 microscopes.
1 polariscope.
4 copper water baths.
1 Wiesnegg air bath.
1 assay furnace.
38 platinum milk dishes.
1 platinum crucible.
General assortment of chemical glassware, porcelain, and other apparatus.
1 horse and harness, blankets, robes, etc.
3 collectors' outfits.
1 Hammond typewriter.

In the Appendix will be found the statutes under which the department acts, and important decisions of the Supreme Court relative to them.

Respectfully submitted,

CHARLES HARRINGTON,
Inspector of Milk and Vinegar.

APPENDIX.

THE LAWS OF MASSACHUSETTS

RELATING TO THE

SALE AND INSPECTION OF MILK.

[Chapter 57, Public Statutes.]

Section 1. The mayor and aldermen of cities shall, and the selectmen of towns may, annually appoint one or more persons to be inspectors of milk for their respective places, who shall be sworn before entering upon the duties of their office. Each inspector shall publish a notice of his appointment for two weeks in a newspaper published in his city or town, or, if no newspaper is published therein, he shall post up such notice in two or more public places in such city or town.

Sect. 2. (*As amended by Section 1 of Chapter 318 of the Acts of 1886.*) Such inspectors shall keep an office, and shall record in books kept for the purpose the names and places of business of all persons engaged in the sale of milk within their city or town. Said inspectors may, with the approval of the mayor or the selectmen, employ suitable persons to act as collectors of samples, who shall be sworn before entering upon their duties. Said inspectors, or the collectors employed and qualified as aforesaid, may enter all places were milk is stored or kept for sale and all carriages used for the conveyance of milk, and the said inspectors or the collectors may take samples for analysis from all such places or carriages, and at the same time a portion of each sample so taken shall, if the person taking the same be requested so to do, be sealed and delivered to the owner or person from whose possession the same is taken, and a receipt given therefor to the person taking the same. The inspectors shall cause the samples of milk so taken to be analyzed or otherwise satisfactorily tested, the result of such analysis or test they shall record and preserve as evidence. The inspectors shall receive such compensation as the mayor or aldermen or selectmen may determine.

Sect. 3. In all cities and in all towns in which there is an inspector of milk, every person who conveys milk in carriages or otherwise, for the purpose of selling the same in such city or town, shall annually, on the first day of May, or within thirty days thereafter, be licensed by the inspector or inspectors of milk of such city or town to sell milk within the limits thereof, and shall pay

to such inspector or inspectors fifty cents each to the use of the city or town. The inspector or inspectors shall pay over monthly to the treasurer of such city or town all sums collected by him or them. Licenses shall be issued only in the names of the owners of carriages or other vehicles, and shall, for the purposes of this chapter, be conclusive evidence of ownership. No license shall be sold, assigned, or transferred. Each license shall record the name, residence, place of business, number of carriages or other vehicles used, the name and residence of every driver or other person engaged in carrying or selling said milk, and the number of the license. Each licensee shall, before engaging in the sale of milk, cause his name, the number of his license, and his place of business, to be legibly placed on each outer side of all carriages or vehicles used by him in the conveyance and sale of milk, and he shall report to the inspector or inspectors any change of driver or other person employed by him which may occur during the term of his license. Whoever, without being first licensed under the provisions of this section, sells milk or exposes it for sale from carriages or other vehicles, or has it in his custody or possession with intent so to sell, and whoever violates any of the provisions of this section, shall, for first offence, be punished by fine of not less than thirty nor more than one hundred dollars; for a second offence, by fine of not less than fifty nor more than three hundred dollars; and for a subsequent offence, by fine of fifty dollars and by imprisonment in the house of correction for not less than thrity nor more than sixty days.

SECT. 4. Every person before selling milk or offering it for sale in a store, booth, stand, or market-place in a city or in a town in which an inspector or inspectors of milk are appointed, shall register in the books of such inspector or inspectors, and shall pay to him or them fifty cents to the use of such city or town; and whoever neglects so to register shall be punished for each offence by fine not exceeding twenty dollars.

SECT. 5. (*As amended by Section 2 of Chapter 318 of the Acts of 1886.*) Whoever, by himself or by his servant or agent, or as the servant or agent of any other person, sells, exchanges, or delivers, or has in his custody or possession with intent to sell or exchange, or exposes or offers for sale or exchange, adulterated milk, or milk to which water or any foreign substance has been added, or milk produced from cows fed on the refuse of distilleries, or from sick or diseased cows, or milk not of good standard quality, shall, for a first offence, be punished by fine of not less than fifty nor more than two hundred dollars; for a second offence, by fine of not less than one hundred nor more than three hundred dollars, or by imprisonment in the house of correction for not less than thirty nor more than sixty days; and for a subquent offence, by fine of fifty dollars and by imprisonment in the house of correction for not less than sixty nor more than ninety days.

SECT. 6. Whoever, by himself or by his servant or agent, or as the servant or agent of any other person, sells, exchanges, or delivers, or has in his custody or possession with intent to sell or

exchange, or exposes or offers for sale as pure milk, any milk from which the cream or a part thereof has been removed, shall be punished by the penalties provided in the preceding section.

SECT. 7. (*As amended by Chapter 352, Acts of 1885.*) No dealer in milk, and no servant or agent of such a dealer, shall sell, exchange, or deliver, or have in his custody or possession with intent to sell, exchange, or deliver, milk from which the cream or any part thereof has been removed, unless in a conspicuous place above the centre upon the outside of every vessel, can, or package from or in which such milk is sold the words "**SKIMMED MILK**" are distinctly marked in uncondensed Gothic letters not less than one inch in length. Whoever violates the provisions of this section shall be punished by the penalties provided in section five.

SECT. 8 (*As amended by Chapter 310, Acts of 1884.*) Any inspector of milk, and any servant or agent of an inspector, who wilfully connives at or assists in a violation of the provisions of this chapter, and whoever hinders, obstructs, or in any way interferes with any inspector of milk, or any servant or agent of an inspector in the performance of his duty, shall be punished by fine of not less than one hundred nor more than three hundred dollars, or by imprisonment for not less than thirty nor more than sixty days.

SECT. 9. (*As amended by Section 2 of Chapter 318 of the Acts of 1886.*) In all prosecutions under this chapter, if the milk is shown upon analysis to contain more than eighty-seven per cent. of watery fluid, or to contain less than thirteen per cent. of milk solids, or to contain less than nine and three-tenths per cent. of milk solids exclusive of fat, it shall be deemed for the purpose of this act to be not of good standard qualily, except during the months of May and June, when milk containing less than twelve per cent. of milk solids shall be deemed to be not of good standard quality.

SECT. 10. It shall be the duty of every inspector to institute a complaint for a violation of any of the provisions of this chapter on the information of any person who lays before him satisfactory evidence by which to sustain such complaint.

SECT. 11. Each inspector shall cause the name and place of business of every person convicted of selling adulterated milk, or of having the same in his possession with intent to sell, to be published in two newspapers in the county in which the offence was committed.

SECT. 12. (*Section 8 of Chapter 352 of the Acts of 1885.*) No person shall sell, exchange, or deliver, or have in his custody or possession with intent to sell, exchange, or deliver, skimmed milk containing less than nine and three-tenths per cent of milk solids exclusive of fat. Whoever violates the provisions of this section shall be punished by the penalties provided in section five of chapter fifty-seven of the Public Statutes.

SECT. 13. (*Section 3 of Chapter 318 of the Acts of 1886.*) If the said inspector or collector, after being so requested, shall refuse or neglect to seal and deliver to the owner or person from whose

possession the same is taken, as provided in section 2, a portion of the sample taken as aforesaid, no evidence shall be received in any court of the results of the analysis or test of the same, which may have been recorded and preserved as aforesaid.

SECT. 14. (*Section 4 of Chapter 318 of the Acts of 1886.*) Whoever makes, uses, or has in his possession any imitation or counterfeit of any seal used by any milk inspector or his agents, and whoever changes, or in any manner tampers with, any sample taken or sealed as provided in section 2, shall be punished by fine not exceeding fifty dollars, or by imprisonment in the house of correction not exceeding ninety days.

LAWS OF MASSACHUSETTS

RELATING TO THE

INSPECTION AND SALE OF OLEOMARGARINE.

[SECTIONS 17, 18, 19, 20, AND 21 OF CHAP. 56 OF THE PUBLIC STATUTES, AS AMENDED BY CHAP. 310 OF THE ACTS OF 1884, AND CHAP. 352, ACTS OF 1885, AND CHAP. 317 OF THE ACTS OF 1886.]

SECTION 17. (*As amended by Section 1 of Chapter 317 of the Acts of 1886.*) Whoever, by himself or his agents, sells, exposes for sale, or has in his possession with intent to sell, any article, substance, or compound, made in imitation or semblance of butter, or as a substitute for butter, and not made exclusively and wholly of milk or cream, or containing any fats, oils, or grease not produced from milk or cream, shall have the words "**IMITATION BUTTER,**" or if such substitute is the compound known as "**OLEOMARGARINE,**" then the word "**OLEOMARGARINE,**" or, if it is known as "**BUTTERINE,**" then the word "**BUTTERINE,**" stamped, labelled, or marked, in a straight line, in printed letters of plain, uncondensed Gothic type, not less than one-half inch in length, so that said words cannot be easily defaced, upon the top, side, and bottom of every tub, firkin, box, or package containing any of the said article, substance, or compound. The said stamp, label, or mark shall contain no other words. And whoever, by himself, or his agents, exposes or offers for sale any of the said article, substance, or compound not in the original package, shall attach to the said article, substance, or compound, in a conspicuous place, a label bearing the words "**IMITATION BUTTER,**" "**OLEOMARGARINE,**" or "**BUTTERINE,**" as the article may be, in printed letters of plain, uncondensed Gothic type, not less than one-half inch in length. And in cases of retail sales of any of said article, substance, or compound not in the original packages, the seller shall, by himself or his agents, attach to each package so sold, and shall deliver therewith to the purchaser, a label or wrapper bearing in a conspicuous place, upon the outside of the package, the words "**IMITATION BUTTER,**" "**OLEOMARGARINE,**" or "**BUTTERINE,**" and no other words, in printed letters, in a straight line of plain, uncondensed Gothic type, not less than one-half inch in length.

SECT. 18. Whosoever, by himself or his agent, sells, exposes for sale, or has in his possession with intent to sell, any article, sub-

stance, or compound made in imitation or semblance of cheese, or as a substitute for cheese, and not made exclusively and wholly of milk or cream, or containing any fats, oils, or grease not produced from milk or cream, shall have the words **"IMITATION CHEESE,"** stamped, labelled, or marked, in printed letters of plain, uncondensed Gothic type, not less than one inch in length, so that the words cannot easily be defaced, upon the side of every cheese-cloth or band around the same, and upon the top and side of every tub, firkin, box, or package containing any of said article, substance, or compound. And in case of retail sales of any of said article, substance, or compound not in the original package, the seller shall, by himself or his agent, attach to each package so sold, and shall deliver therewith to the purchaser, a label or wrapper bearing in a conspicuous place upon the outside of the package the words **"IMITATION CHEESE,"** in printed letters of plain, uncondensed Gothic type, not less than one inch in length.

SECT. 19. (*As amended by Section 2 of Chapter 317 of the Acts of 1886.*) Whoever sells, exposes for sale, or has in his possession with intent to sell, any article, substance, or compound made in imitation or semblance of butter or cheese, or or as a substitute for butter or cheese, except as provided in the two preceding sections, and whoever, with intent to deceive, defaces, erases, cancels, or removes any mark, stamp, brand, label, or wrapper provided for in such sections, or in any manner shall falsely label, stamp, or mark any box, tub, article, or package marked, stamped, or labelled as aforesaid, shall for every such offence forfeit to the city or town where the offence was committed one hundred dollars, and for a second and each subsequent offence two hundred dollars.

SECT. 20. Inspectors of milk shall institute complaints for violations of the provisions of the three preceding sections when they have reasonable cause to believe that such provisions have been violated, and on the information of any person who lays before them satisfactory evidence by which to sustain such complaint. Said inspectors may enter all places where butter or cheese is stored or kept for sale, and said inspectors shall also take specimens of suspected butter or cheese, and cause them to be analized or otherwise satisfactorily tested, the result of which analysis or test they shall record and preserve as evidence; and a certificate of such results, sworn to by the analyzer, shall be admitted in evidence in all prosecutions under this and three preceding sections. The expense of such analysis or test, not exceeding twenty dollars in any one case, may be included in the costs of such prosecutions. Whoever hinders, obstructs, or in any way interferes with any inspector, or any agent of an inspector, in the performance of his duty, shall be punished by a fine of fifty dollars for the first offence, and of one hundred dollars for each subsequent offence.

SECT. 21. For the purposes of the four preceding sections the terms "butter" and "cheese" shall mean the products which are usually known by these names, and are manufactured exclusively

from milk or cream, with salt and rennet, and with or without coloring-matter.

[Chapter 317 of the Acts of 1886.]

Section 3. Whoever, by himself or his agents, sells, exposes for sale, or has in his possession with intent to sell, any article, substance, or compound made in imitation or semblance of butter, or as a substitute for butter, and not made exclusively and wholly of milk or cream, or containing any fats, oils, or grease not produced from milk or cream, contained in any box, tub, article, or package marked or labelled with the word "dairy" or the word "creamery," shall for every such offence forfeit to the city or town where the offence was committed one hundred dollars, and for a second and each subsequent offence two hundred dollars.

Sect. 4. Every person who conveys any imitation butter, oleomargarine, or butterine in carriages or otherwise, for the purpose of selling the same in any city or town, shall, within thirty days of the passage of this act, and annually on the first day of May, or within thirty days thereafter, be licensed by the inspector or inspectors of milk of such city or town, to sell the same within the limits thereof, and shall pay to such inspector or inspectors fifty cents to the use of the city or town. The inspector or inspectors shall pay over monthly to the treasurer of such city or town all sums collected by him or them. In towns in which there is no inspector of milk, licenses shall be issued by the town clerk. Licenses shall be issued only in the names of the owners of carriages or other vehicles, and shall, for the purposes of this chapter, be conclusive evidence of ownership. No license shall be sold, assigned, or transferred. Each license shall record the name, residence, place of business, number of carriages or other vehicles used, the name and residence of every driver or other person engaged in carrying or selling imitation butter, oleomargarine, or butterine, and the number of the license. Each licensee shall, before engaging in the sale of any of the articles as aforesaid, cause his name, the number of his licence, his place of business, to be legibly placed on each outer side of all carriages or vehicles used by him in the conveyance and sale of the articles as aforesaid, in Gothic letters, not less than one inch in length, and he shall report to the inspector or inspectors any change of driver or other person employed by him which may occur during the term of his license. Whoever, without being first licensed under the provisions of this section, sells any of the articles as aforesaid, or exposes or offers them for sale from carriages or other vehicles, or has them is his custody or possession with intent so to sell, and whoever violates any of the provisions of this section, shall, for the first offence, be punished by fine of not less than thirty nor more than one hundred dollars; for a second offence, by a fine of not less than fifty nor more than three hundred dollars.

Sect. 5. Every person, before selling or offering for sale any of the articles as aforesaid in a store, booth, stand, or marketplace in a city or in a town in which an inspector or inspectors of milk are appointed, shall within thirty days of the passage of this

act, and annually on the first day of May or within thirty days thereafter, register in the books of such inspector or inspectors, or if there be no inspector then in the books of the town clerk, and shall pay to him or them fifty cents to the use of such city or town; and whoever neglects to so register shall be punished for each offence by a fine not exceeding twenty dollars.

LAWS OF MASSACHUSETTS

RELATIVE TO THE

INSPECTION AND SALE OF VINEGAR.

PUBLIC STATUTES. [CHAPTER 60, SECTION 69, AS AMENDED BY CHAPTER 257, ACTS OF 1883.]

SECTION 69. Every person who manufactures for sale, or offers or exposes for sale as cider-vinegar, any vinegar not the legitimate product of pure apple-juice, known as apple-cider, or vinegar not made exclusively of said apple-cider, or vinegar into which foreign substances, drugs, or acids have been introduced, as may appear by proper tests, shall for each offence be punishable by fine of not less than fifty nor more than one hundred dollars.

SECT. 70. Every person who manufactures for sale, or offers for sale, any vinegar found upon proper tests to contain any preparation of lead, copper, sulphuric acid, or other ingredient injurious to health, shall for each such offence be punished by fine of not less than one hundred dollars.

SECT. 71. The mayor and aldermen of cities shall, and the selectmen of towns may, annually appoint one or more persons to be inspectors of vinegar, who shall be sworn before entering upon their duties.

[CHAPTER 307, ACTS OF 1884, AS AMENDED BY CHAPTER 150, ACTS OF 1885.]

SECTION 1. No person shall by himself, his servant or agent, or as the servant or agent of any other person, sell, exchange, deliver, or have in his custody or possession with intent to sell or exchange, or expose or offer for sale or exchange, any adulterated vinegar, or label, brand, or sell as cider-vinegar, or as apple-vinegar, any vinegar not the legitimate product of pure apple-juice, or not made exclusively from apple-cider.

SECT. 2. All vinegars shall be without artificial coloring matter, and shall have an acidity equivalent to the presence of not less than four and one-half per cent. by weight of absolute acetic acid, and in the case of cider-vinegar shall contain in addition not less than two per cent. by weight of cider-vinegar solids upon full evaporation over boiling water; and if any vinegar contains any artificial coloring-matter, or less than the above amount of acidity, or, in the case of cider-vinegar, if it contains less than the above amount of acidity or of cider-vinegar solids, it shall be deemed to be adulterated within the meaning of this act.

SECT. 4. Whoever violates any of the provisions of this act shall be punished by fine not exceeding one hundred dollars.

DIGEST OF SOME OF THE MORE IMPORTANT OPINIONS OF THE SUPREME JUDICIAL COURT IN RELATION TO THE LAWS GOVERNING THE INSPECTION AND SALE OF MILK AND OF OLEOMARGARINE.

Pub. Stats., Chap. 57, Sect. 2, so far as it authorizes inspectors of milk to enter all carriages used in the conveyance of milk, and, whenever they have reason to believe any milk found therein is adulterated, to take specimens thereof for the purpose of analyzing or otherwise satisfactorily testing the same, is constitutional.

Commonwealth *v.* Carter, 132 Mass., 12.

1. A person may be convicted of selling adultered milk, under Pub. Stats., Chap. 57, Sect. 5 (Gen. Stats., Chap. 49, Sect. 151), although he did not know it to be adulterated; and an averment in the indictment that he had such knowledge may be rejected as surplusage.

2. It is not necessary, in such indictment, to aver that the milk was cow's milk.

3. An indictment alleging a sale of adulterated milk to a woman is not defeated by proof that she was married and was acting as agent for her husband, if the seller had no notice, expressed or implied, of these facts.

4. An indictment under Pub. Stats., Chap. 57, Sect. 5 (Gen. Stats., Chap. 49, Sect. 151), which charges that the defendant sold a certain quanity of "adulterated milk, to which a large quanity—that is to say, four quarts—of water had been added," is not bad for duplicity.

Commonwealth *v.* Farren, 9 Allen, 489.

1. An indictment which alleges that the defendent "did unlawfully keep, offer for sale, and sell" adulterated milk, charges but one offence.

2. In support of such indictment, one who in a great many instances has used a lactometer for the purpose of testing the quality and the purity of milk, may testify to the result of an experiment made by him with the same lactometer upon the milk in question, although no evidence is offered as to the character of the instrument.

Commonwealth *v.* Nichols, 10 Allen, 199.

1. At the trial of an indictment on Pub. Stats., Chap. 57, Sect. 5 (Statute of 1868, Chap. 263), for selling "adulterated milk, there was evidence that the defendant [who was a son of the owner of a milk route], with a companion who was in the same employment with himself, knowingly adulterated milk on its way for distribution to his father's customers, and then, having charge, with his companion, of its distribution from the wagon on which it was conveyed upon the route, caused a can of it to be delivered to one of the customers by the hand of his companion. *Held*, that he

had no ground of exception to instructions to the jury; that, in the absence of proof of any previous contract to supply milk to the customer, the delivery might be deemed an act of sale; nor to an instruction framed on a supposition that the jury might find that he was in the employment of his father, although there was no averment in the indictment to that effect."

Commonwealth *v.* Haynes, 107 Mass., 194.

A person may be convicted of selling adulterated milk, upon a complaint under Pub. Stats., Chap. 57, Sect. 5 (Statute of 1880, Chap. 209, Sect. 3), without allegation or proof that he knew it to be adulterated.

Commonwealth *v.* Evans, 133 Mass., 11.

A complaint, under Pub. Stats., Chap. 57, Sect. 5, alleging that the defendant, at a time and place named, had in his possession a certain quantity, to wit, one pint of adulterated milk containing less than thirteen per cent. of milk solids, with intent then and there unlawfully to sell the same, is sufficient, without further alleging that the milk was analyzed, and found on analysis to contain less than thirteen per cent. of milk solids. At the trial of a complaint, under Pub. Stats., Chap. 57, Sect. 5, alleging that the defendant had in his possession adulterated milk, to wit, milk containing less than thirteen per cent. of milk solids, with intent to sell the same, it is immaterial in what manner the quantity of milk solids has been reduced below thirteen per cent., if the intent is to sell the milk as pure milk, and not as skimmed milk.

Commonwealth *v.* Bowers, 140 Mass., 483.

Pub. Stats., Chap. 57, Sect. 9 (Statue of 1880, Chap. 209, Sect. 8), providing that "in all prosecutions under this act," for selling adulterated milk, "if the milk shall be shown upon analysis to contain more than eighty-seven per centum of watery fluid, or to contain less than thirteen per centum of milk solids, it shall be deemed for the purpose of this act to be adulterated," is constitutional.

Commonwealth *v.* Evans, 132 Mass., 11.

A complaint, under the Pub. Stat., Chap. 57, Sects. 5, 9, alleging that the defendant, at a time and place named, had in his custody and possession a certain quantity, to wit, one pint, of adulterated milk, to wit, milk then and there containing less than thirteen per cent. of milk solids, with intent then and there unlawfully to sell the same, is sufficient.

Commonwealth *v.* Keenan, 139 Mass., 193.

A complaint under the Pub. Stat., Chap. 57, Sect. 5, alleging in one count that the defendant, at a time and place named, sold a certain quantity, to wit, one pint, of adulterated milk, to wit, milk containing less than thirteen per cent. of milk solids, and in another count, alleging that the defendant, at the same time

and place, had in his possession a certain quantity, to wit, one pint, of adulterated milk, to wit, milk containing less than thirteen per cent. of milk solids, with intent then and there unlawfully to sell the same, is sufficient, without further alleging that the milk was analyzed, and found on analysis to contain less than thirteen per cent. of milk solids.

The Pub. Stats., Chap. 57, Sect. 10, do not prohibit any person not an inspector of milk from making a complaint for a violation of the provisions of the chapter.

A complaint, under the Pub. Stats., Chap. 57, Sect. 5, alleging that the defendant sold one pint of adulterated milk, to wit, milk containing less than thirteen per cent. of milk solids, is not supported by proof that he sold the milk as skimmed milk out of a tank marked as required by Sect. 7, although the milk was watered.

A complaint, under Pub. Stat., Chap. 57, Sect. 5, alleging a sale of adulterated milk, to wit, milk containing less than thirteen per cent. of milk solids, is supported by proof of a sale of milk which, by the removal of a part of the cream, has been reduced in solids below thirteen per cent. unless the milk was sold as skimmed milk, and out of a vessel, can, or package marked as required by Sect. 7; and it is not necessary that a complaint charging such an offence should be drawn under Sect. 6.

Commonwealth *v.* Tobias, 141 Mass., 129.

At the trial of an indictment on Pub. Stat., Chap. 57, Sect. 5, charging the defendant with having adulterated milk in his possession, with intent unlawfully to sell the same, an analyst in the employ of the Inspector of Milk may testify to the result of his analysis of the milk taken from the defendant from memory, using a memorandum made by him at the time of analysis to refresh his memory, without further proof that the requirements of the Pub. Stats., Chap. 57, Sect. 2, as amended by the Statute of 1884, Chap. 310, Sect. 3, have been complied with.

Commonwealth *v.* Spear, 143 Mass., 172.

At a trial of an indictment on the Pub. Stats., Sect. 5, charging the defendant with having adulterated milk in his possession, with intent to unlawfully sell the same, an analyst in the employ of the Inspector of Milk, who analyzed the milk taken from the defendant, testified that he reserved a portion of the milk so taken, by putting it into a bottle, which he corked and sealed. A chemist, to whom the analyst delivered the portion of milk so reserved, testified, for the defendant, that the bottle was not sealed. The defendant asked the judge to rule, that, if the bottle was corked only, it was not a compliance with the requirement of the Statute of 1884, Chap. 310, Sect. 4, as to the sealing of such reserved portion. The judge declined so to rule, and instructed the jury that they might consider the evidence as bearing upon the credibility of the government witness.

Held, that the defendant had no ground of exception.

If, at the trial of an indictment on the Pub. Stats., Chap. 57,

Sect. 5, charging the defendant with having adulterated milk in his possession, with intent to unlawfully sell the same, an analyst in the employ of the Inspector of Milk of a city testifies that he added, for the purpose of preserving it, a few drops of carbolic acid to the sample reserved from milk delivered to him for analysis, it is a question of fact for the jury whether the reservation of the sample was in accordance with the requirement of the Stat. of 1884, Chap. 310, Sect. 4.

Commonwealth *v.* Spear, 143 Mass., 172.

At the trial of a complaint, under Pub. Stats., Chap. 57, Sect. 5, alleging that the defendant had in his possession adulterated milk, with intent unlawfully to sell the same, the evidence showed that a wagon with the defendant's name and number on it was standing upon a public street in a city at an early hour of the morning; that the defendant's servant was on the wagon, and there were several eight-quart cans in the wagon; that a collector of samples in the employ of the Inspector of Milk for the city took a sample of milk from one of the cans, which was not marked "skimmed milk;" and that an analysis of the milk taken showed that it was below the legal standard.

Held, that there was evidence of an intent on the part of the defendant to sell the milk, which was properly submitted to the jury.

Commonwealth *v.* Smith, 143 Mass., 169.

A complaint on the Stat. of 1886, Chap. 318, Sect. 2, alleging that on the first day of July, 1886, the defendant had in his possession "one pint of milk not of good standard quality, that is to say, milk containing less than thirteen per cent. of milk solids, with intent then and there unlawfully to sell the same within this Commonwealth," is sufficient, without negativing the exception of the months of May and June.

The Stat. of 1885, Chap. 352, Sect. 6, provides that Sect. 9 of the Pub. Stats., Chap. 57 (which relates to the sale of adulterated milk), "is hereby amended so as to read as follows." The Stat. of 1886, Chap. 318, Sect. 2, provides that Sect. 9 of the Pub. Stats., Chap. 57, "is hereby amended so as to read as follows." In each section, after the words quoted, there follows a sentence which covers the whole subject of the original section.

Held, that the Stat. of 1886, Chap. 318, Sect. 2, was a valid enactment.

The Stat. of 1884, Chap. 310, Sect. 4, providing for the reservation and sealing, before commencing the analysis, of a portion of the sample of milk taken for analysis, is impliedly repealed by the Stat. of 1886, Chap. 318, Sections 1 and 3.

Commonwealth *v.* Kenneson, 143 Mass., 418.

The Stat. of 1885, Chap. 352, Sect. 8, provides that no person shall sell, or have in his possession with intent to sell, skimmed milk below a certain standard, and enacts that whoever violates

the provisions of this section shall be punished by the penalties provided in the Pub. Stats., Chap. 57, Sect. 5.

Held, on a complaint made under the Stat. of 1885, Chap. 352, Sect. 8, for an offence committed after the Stat. of 1886, Chap. 318, Sect. 2, took effect, that, even if the last named statute repealed by implication the Pub. Stats., Chap. 57, Sect. 5, the complaint could be maintained.

Commonwealth *v.* Kendall, 144 Mass., 357.

An indictment on the Stat. of 1886, Chap. 318, Sect. 2, alleging that the defendant had in his "possession milk to which a certain foreign substance had been added, to wit, annotto coloring-matter," with intent unlawfully to sell the same, is sufficient without naming the quantity.

Evidence offered at the trial of such an indictment as to two samples of milk taken from the defendant's possession at substantially the same time is competent, and the government cannot be required at the same time of the offer, if ever, to elect which sample it will rely on.

The addition of the annotto coloring-matter, whether injurious to health or not, is punishable under the statute.

Evidence that the "milk was of low grade" is competent, although it may tend to prove another offence.

Commonwealth *v.* Schaffner, 146 Mass., 512.

An averment in a complaint under the milk acts, that the defendants were "partners" is mere surplusage, and need not be proved.

On such a complaint, evidence that the defendant was on a wagon with a license number on it, and containing milk cans, from one of which was taken adulterated milk, is competent on the issue that he was in possession of the milk to sell it.

Commonwealth *v.* Rowell, 146 Mass., 128.

On a complaint for the sale of milk not of good standard quality, evidence that the milk was delivered under a special contract is immaterial.

If a buyer of milk takes a portion to a milk inspector, the latter may testify on the trial of such a complaint as to the results of his analysis.

Commonwealth *v.* Holt, 146 Mass., 38.

Oleomargarine was exposed for sale in the original package, namely, a tub, the top of the cover of which had been duly marked as well as the side and bottom, but from which the cover had been removed, disclosing the superficial surface of the oleomargarine without any mark.

Held, that the terms of the Stat. of 1886, Chap. 317, Sect. 1, had been complied with.

Commonwealth *v.* Bean, 148 Mass., 172.

At the trial of a complaint, on the Stat. of 1886, Chap. 318, Sect. 2, for selling milk not of the standard quality, there being evidence that the milk was skimmed milk, and sold from a measure duly marked, the jury were instructed that the defendant would be liable unless he sold the milk not as pure milk, but as skimmed milk, and further, that he would be liable unless the buyer had notice or knowledge that the milk was skimmed milk.

Held, that the instruction was erroneous.

Commonwealth *v.* Smith, 149 Mass., 9.

A complaint on the Statutes of 1886, Chap. 317, Sect. 1, charging the defendant with selling imitation butter at retail without a descriptive wrapper, need not allege that the sale was actually made by the defendant's agent.

At the trial of such a complaint there was evidence that the sale was made by the defendant's agent, acting within the scope of his employment, and that he was supplied with wrappers properly marked for covering the article sold; and the presiding judge refused to instruct the jury, as requested by the defendant, that if the agent's failure to use the wrappers was the result of inadvertence on his part, and not intentional, the jury would not be justified in convicting the defendant.

Held, that the defendant had no ground of exception.

Commonwealth *v.* Gray, 150 Mass., 327.

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